

**INDIVIDUAL MOTION PRACTICES OF  
JUDGE JOANNA SEYBERT  
United States District Court  
Alfonse M. D'Amato Federal Building  
1034 Federal Plaza  
Central Islip, NY 11722-4443  
Chambers: (631) 712-5610  
Contacts: Charles Baran, Deputy Clerk, (631) 712-5615  
Bonnie Nohs, Secretary, (631) 712-5610  
Hours: 9:00 a.m. to 5:00 p.m.**

**I. COMMUNICATIONS WITH CHAMBERS:**

A. *Letters*

Except as provided below, communications with Chambers shall be by letter, with copies simultaneously delivered to all counsel. Copies of correspondence between counsel shall not be sent to the Court.

All correspondence should be mailed to the Honorable Joanna Seybert, U.S. District Court, Long Island Federal Courthouse, 1034 Federal Plaza, Central Islip, New York 11722-4443, or delivered to the Clerk's Office. No correspondence should be delivered to Chambers. The Court will not consider any ex parte correspondence or documents.

B. *Telephone Calls*

Counsel are urged to communicate by letter whenever possible. For questions concerning procedure, please refer to the Federal Rules of Civil Procedure, the Local Rules of the Eastern District of New York, and these Individual Rules. Except as provided in paragraph I.D. below, telephone calls to Chambers are permitted only in emergency situations requiring immediate attention. In such situations, call Chambers at the number listed above.

There shall be no ex parte telephone calls to Chambers, unless concerning the scheduling of matters or as otherwise permitted by these rules.

C. *Faxes*

Faxes to Chambers are not permitted unless prior authorization is obtained.

D. *Docketing, Scheduling, and Calendar Matters*

For docketing, scheduling and calendar matters, call Charles Baran, Deputy Clerk, at the number listed above.

E. *Requests for Adjournments or Extensions of Time*

All requests for adjournments or extensions of time must state (1) the original date; (2) the number of previous requests for adjournment or extension; (3) whether previous requests were granted or denied; and (4) whether the adversary consents, and if not, the reasons given by the adversary for refusing to consent. If the requested adjournment or extension affects any other scheduled dates, a proposed Revised Scheduling Order must be attached. If the request is for an adjournment of a court appearance, absent an emergency it shall be made at least 48 hours prior to the scheduled appearance.

Requests for extensions of time or adjournments regarding motions, Bankruptcy Appeals, Social Security Appeals, and Objections to Orders of Magistrate Judges may be affected by the requirements of Section III, below.

**II. CONFERENCES:**

Conferences will be held in Courtroom 1030 at the Long Island Federal Courthouse, Central Islip, New York. All parties shall appear at the courthouse promptly at the scheduled hour and wait in the courtroom until the case is called.

All counsel appearing at conferences should be fully familiar with the case, prepared to discuss all aspects of the case, and should be authorized to consummate settlements. In this regard, counsel are expected to be fully familiar with Fed. R. Civ. P. 16 before attending any conferences.

**III. MOTIONS:**

A. Strict compliance with these rules, the Federal Rules of Civil Procedure and the Local Rules of the Eastern District of New York is required. Papers not in compliance will not be considered by the Court.

B. Parties wishing to make motions, except motions for summary judgment, admission pro hac vice, motions in conjunction with Bankruptcy and Social Security Appeals and objections to orders and reports and recommendations of Magistrate Judges,

must follow the procedures outlined below under the "General Motion Rules." The rules governing motions for summary judgment, admission pro hac vice, motions in conjunction with Bankruptcy and Social Security Appeals and motions objecting to orders and reports and recommendations of Magistrate Judges are set forth below under the appropriate headings.

**C.** All original motion papers, along with courtesy copies, must be mailed or delivered to the Clerk's Office or mailed to Chambers. Originals and courtesy copies should be mailed or delivered in the same package.

**D.** *General Motion Rules:*

Pursuant to Rule 6 of the Federal Rules of Civil Procedure and Local Civil Rule 6.1, the following Individual Rules govern the service and filing of motion papers. Unless otherwise ordered by the Court, any motion, the notice of motion, supporting affidavits, and memoranda shall be served and filed as follows:

1. On all civil motions, petitions, applications and exceptions other than motions for summary judgment, admissions pro hac vice, motions in conjunction with Bankruptcy and Social Security Appeals, objections to orders and reports and recommendations of Magistrate Judges, and petitions for writs of habeas corpus, (i) the Notice of Motion, supporting affidavits and memoranda of law shall be served on all other parties that have appeared in the action and filed by the moving party with the Court and; (ii) any opposing affidavits and answering memoranda of law shall be served on all other parties that have appeared in the action and filed with the Court within ten (10) business days after service of the moving papers; and (iii) any reply affidavit and reply memoranda of law shall be served on all other parties that have appeared in the action and filed with the Court within five (5) business days after service of the opposing papers.

2. **Absent extraordinary circumstances, no extensions will be granted.**

3. Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to twenty-five (25) pages, and reply memoranda are limited to ten (10) pages. Memoranda of ten (10) pages or more shall contain a table of contents.

4. Courtesy copies of all motion papers shall be provided to Chambers upon filing, including affidavits and memoranda of law.

5. Any party may request oral argument by letter at the time the moving

or opposing or reply papers are filed. The Court will determine whether argument will be heard, and if so, will notify counsel of the argument date.

6. Should the non-movant seek to make a cross-motion, the cross-motion must follow the same procedures as utilized for making the motion.

7. Motions not conforming to these Individual Rules will be returned.

8. Motions made pursuant to Rules 26 through 37 of the Federal Rules of Civil Procedure shall be made in accordance with the Local Civil Rules and the Individual Practices of the United State Magistrate Judge.

**E. *Motions for Summary Judgment:***

1. Any party wishing to make a motion for summary judgment must first serve upon all parties a statement pursuant to Local Civil Rule 56.1 (“Rule 56.1 Statement”), setting forth those issues as to which there is no genuine issue of material fact. Each Rule 56.1 Statement must be followed by a citation to evidence which would be admissible, as set forth and required by Rule 56(e) of the Federal Rules of Civil Procedure. All parties receiving a Rule 56.1 Statement and wishing to oppose the motion must serve on the movant, within seven (7) days of receiving the movant's Rule 56.1 Statement, an original and two copies of a counter-statement pursuant to Rule 56.1 (“Rule 56.1 Counter-Statement”), setting forth those issues as to which there exists a genuine issue of material fact. Again, each statement of material fact must be followed by a citation to evidence which would be admissible, as set forth and required by Rule 56(e) of the Federal Rules of Civil Procedure. Should the non-movant require additional time, the parties may agree among themselves to a reasonable extension.

2. After receiving the opposing party’s Rule 56.1 Counter-Statement pursuant to Local Civil Rule 56.1, should the movant still wish to move for summary judgment, the movant shall write to Judge Seybert and request a pre-motion conference. In no more than three (3) pages, the letter should briefly state the basis for the anticipated motion. The letter shall also contain a copy of the movant’s Rule 56.1 Statement and the non-movant’s Rule 56.1 Counter-Statement. In no more than three (3) pages, all parties served with this letter must serve and file a letter in response within seven (7) days from service of the notification letter.

3. The arrangements for a pre-motion conference must be made with Judge Seybert prior to any deadline established by the Magistrate Judge for the making of dispositive motions.

4. Adherence to Local Civil Rule 56.1 is required. A pre-motion conference will not be held until such time that the parties are in compliance with Local Civil Rule 56.1.

5. At the pre-motion conference, if the movant decides to make a motion for summary judgment, a briefing schedule will be established by the Court at the conference in accordance with Rule III.D., above. **There will be no adjournments of this briefing schedule.**

**F. *Motions for Admission Pro Hac Vice:***

A motion for admission pro hac vice, together with a proposed Order admitting the attorney pro hac vice, shall be served and filed at least seven (7) days prior to the return date designated in the Notice of Motion. The parties shall pay the requisite filing fee, if any, upon filing the motion with the Court. Although there is no need to file a memorandum of law, this motion must comply with the Rules of the Eastern District of New York for admission pro hac vice. These motions shall be on submission. If the motion is unopposed, the movant shall so inform the Court. Should any party object to the motion, opposition papers must be served and filed at least two (2) days prior to the return date. No reply papers are permitted.

**G. *Bankruptcy Appeals:***

The Court directs the parties to Bankruptcy Rules 8001 - 8013 regarding the filing deadlines for Notices of Appeal and submission of briefs, as well as the form and length of briefs. **No extensions will be granted.**

**H. *Social Security Appeals:***

Motions for judgment on the pleadings pursuant to Fed. R. Civ. P. 12(c) must be made within sixty days of the filing of the transcript with the Clerk of the Court. Failure to adhere to this rule will result in dismissal of the appeal, without prejudice and with leave to re-file. **No extensions will be granted.**

**I. *Objections to Magistrate Judge Orders and Recommendations***

All objections to orders and reports and recommendations of Magistrate Judges must be served and filed with the Clerk of the Court, with a courtesy copy to Chambers, within ten (10) days from the date of service of the decision, unless otherwise directed by the Magistrate Judge. All papers responding to the objections shall be served and filed within ten (10) days from receiving the objections. Please consult Fed. R. Civ. P. 6(a) and 72.

#### **IV. PRETRIAL PROCEDURES:**

##### **A. *Joint Pretrial Orders in Civil Cases.***

Unless otherwise ordered by the Court, within sixty (60) days from the date for the completion of discovery in a civil case, the parties shall submit to the court for its approval a joint pretrial order, which shall include the following:

- i. The full caption of the action.
- ii. The names, addresses (including firm names), and telephone and fax numbers of trial counsel.
- iii. A brief statement by plaintiff as to the basis of subject matter jurisdiction, and a brief statement by each other party as to the presence or absence of subject matter jurisdiction. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount.
- iv. A brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matter but including citations to all statutes relied on. Such summaries shall identify all claims and defenses previously asserted which are not to be tried.
- v. A statement by each party as to whether the case is to be tried with or without a jury, and the number of trial days needed.
- vi. A statement as to whether or not all parties have consented to trial of the case by a Magistrate Judge (without identifying which parties have or have not so consented).
- vii. Any stipulations or agreed statements of fact or law which have been agreed to by all parties.
- viii. A list of the names and addresses of all witnesses, including possible witnesses who will be called only for impeachment or rebuttal purposes and so designated, together with a brief narrative statement of the expected testimony of each witness. Only listed witnesses will be permitted to testify except when prompt notice has been given and good cause shown.
- ix. A designation by each party of deposition testimony to be offered in its case in chief, with any cross-designations and objections by any other party.

x. A list by each party of exhibits to be offered in its case in chief, with one star indicating exhibits to which no party objects on grounds of authenticity, and two stars indicating exhibits to which no party objects on any ground.

1. A statement of stipulated facts, if any;

2. A schedule listing exhibits to be offered in evidence and, if not admitted by stipulation, the party or parties that will be offering them. The schedule will also include possible impeachment documents and/or exhibits, as well as exhibits that will be offered only on rebuttal. The parties will list and briefly describe the basis for any objections that they have to the admissibility of any exhibits to be offered by any other party. Parties are expected to resolve before trial all issues of authenticity, chain of custody and related grounds. Meritless objections based on these grounds may result in the imposition of sanctions. Only exhibits listed will be received in evidence except for good cause shown; and

3. All exhibits must be premarked for the trial and exchanged with the other parties at least ten days before trial. Exhibits shall be submitted in binders with tabs, and shall include a table of contents.

#### **B. Filings Prior to Trial in Civil Cases:**

Unless otherwise ordered by the Court, each party represented by counsel shall comply with the following requirements and schedule. Parties appearing pro se are to seek the Court's guidance at the pretrial conference.

i. Proposed voir dire questions: Submit together an original and one copy of proposed voir dire questions five (5) business days prior to jury selection date. Include a final witness list. When feasible, proposed voir dire questions also should be submitted on a diskette in WordPerfect format.

ii. Claims for relief: Submit, by claim, a detailed statement regarding damages and other relief sought fifteen (15) days prior to trial date.

iii. Elements of claims and defenses: In non-jury cases, submit, by claim, an original and one copy of a statement of the elements of each claim or defense involving such party, together with a summary of the facts relied upon to establish each element.

iv. Motions in limine: Submit together an original and one copy of all motions addressing any evidentiary or other issues which should be resolved in limine,

seven (7) days prior to jury selection date.

v. Exhibits: Each party must provide two (2) sets of legible, unstapled exhibits in three-ring binder(s), tabbed sequentially, plaintiffs use numbers and defendants use letters, with an accurate, complete list of the exhibits and a brief description, at the front of each binder. The exhibits must be marked prior to trial and exhibit numbers or letters must conform with the joint pretrial order. Counsel also should include copies of any deposition testimony to be utilized at trial. Exhibits shall be submitted to the Court and exchanged with counsel three (3) business days prior to trial.

vi. Stipulations: Attorneys are to meet sufficiently before trial to discuss with each other the various relevant claims, defenses, issues and facts, and items of evidence, and to stipulate in an informal writing such items that are not in dispute. In addition, where there are no objections to authenticity or admissibility of exhibits, the parties are to so stipulate in an informal writing. This writing shall be submitted to the Court three (3) business days prior to trial.

vii. Requests to charge: Requests to charge should be limited to the elements of the claims, the damages sought and the defenses. Submit an original and one copy on the date of jury selection. Parties also shall submit an original and one copy of a proposed verdict sheet on the date of jury selection. When feasible, proposed charges and verdict sheets also should be submitted on a diskette in WordPerfect format.

viii. Bench trials: Pretrial memoranda of law, or trial briefs, may be submitted containing any legal argument that counsel wishes the Court to consider on any legal issue that counsel believes will arise at trial. Such memoranda shall not exceed ten (10) pages. Submit an original and one copy seven (7) business days prior to trial. Within fifteen (15) calendar days after the trial concludes, parties shall submit proposed findings of fact and conclusions of law, with citations to the trial record, together with supporting legal authority. Submit an original and one copy and a diskette in WordPerfect format.

ix. Pretrial Memoranda: In any case where a party believes it would be useful, the party may submit an original and one copy of their pretrial memorandum fifteen (15) days prior to trial date.

xi. All documents submitted to the Court also must be served upon, or provided to, opposing counsel.



**C. Notification of Settlement:**

Any time a settlement is reached, whether prior to jury selection or while on trial, the parties are required to immediately notify the Court. During business hours, counsel shall telephone Chambers at (631) 712-5610 or 5615, and shall follow up with a formally executed Stipulation of Settlement or Discontinuance. After business hours or on weekends, counsel shall leave a message at (631) 712-5615.